



County Administrative Office

Gregory C. Devereaux
Chief Executive Officer

October 9, 2015

VIA EMAIL CEQA.Guidelines@resources.ca.gov

Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

Re: Comment Letter – Proposed Updates to the CEQA Guidelines

Dear Mr. Calfee:

The County of San Bernardino (County) appreciates the opportunity to provide the following comments on the Governor's Office of Planning and Research (OPR) Proposed Update to the California Environmental Quality Act (CEQA) Guidelines Preliminary Discussion Draft (Draft Guidelines):

- **Section 15064.7(d):** The County recommends that the "public agency," referred to as having adopted an environmental standard through a public review process that may be used as a threshold of significance, includes *federal* agencies, for this limited purpose.
- **Page 47:** The County disagrees with the elimination of mineral resources as a separate impact. The Surface Mining and Reclamation Act of 1975 (SMARA) recognizes that conservation of access to mineral reserves is essential to the environment of California and that mineral resources are a natural resource protected by State law. SMARA provides, in relevant part, "[t]he Legislature further finds that the production and development of local mineral resources that help maintain a strong economy and that are necessary to build the state's infrastructure are vital to reducing transportation emissions that result from the distribution of hundreds of millions of tons of construction aggregates that are used annually in building and maintaining the state....The Legislature further finds that the state's mineral resources are vital, finite, and important natural resources and the responsible protection and development of these mineral resources is vital to a sustainable California." (Cal. Pub. Res. Code section 2711(d) and (f).) The elimination of mineral resources as a separate impact conflicts with SMARA and State policy that protect mineral resources as a natural resource.
- **Pages 44, 67-68:** The revision to Section XVI (b) in Appendix G, eliminates the question of whether a project conflicts with a congestion management program, including "level of service" standards, and replaces it with an analysis of whether the project causes substantial "vehicles miles traveled." This revision is not consistent with Government Code section 65089. The original language in Section XVI(b), including the reference to "level of service," should not be deleted, but instead, could include an exception for projects in "infill opportunity zones" and "transit priority areas" (except in locations specifically identified in the Guidelines) pursuant to Government Code section 65088.4 and Public

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Resources Code section 21099, respectively. The revised language in Section XVI(b) could then be included in a new question that only applies to projects in infill opportunity zones and transit priority areas.

- **Page 63:** The elimination of the impact to mineral resources is proposed to be defined now as an impact to “open space used for production of resources.” Subsection (ix) on page 64 identifies the impact as “causing the loss of availability of a known mineral resource.” The result of these revisions appears to be that if an area is not already being used for production of mineral resources, then there is no impact, which would allow areas that may have minerals (that are not being currently mined) to be developed, thereby losing future mineral production. (Please refer to the statutory and policy positions stated in our second bulletpoint above.)
- **Page 78 (Question for Stakeholders):** The Guidelines should define the phrase “wasteful, inefficient, and unnecessary consumption of energy,” by including a reference to compliance with the Building Code, at a minimum, as well as other factors. Without further definition, it will be challenging for a lead agency to address or respond to comments on this topic.
- **Section 15125:** In light of the proposed amendments to Subsection 15125(a), we recommend amending or deleting subsection (e) to clarify that the analysis may examine those conditions, consistent with Subsections (a)(1)-(3), at the time the notice of preparation is published, or if no notice of preparation is published at the time environmental analysis is commenced.
- **Page 138:** On federally funded transportation projects, the U.S. Department of Transportation Federal Highway Administration has assigned to the State Department of Transportation (Caltrans) certain responsibilities under the National Environmental Policy Act. As a result, the references to “federal agency” in Section 15222 should be expanded to include Caltrans.

Please note that the County Board of Supervisors has not adopted an official position on the Draft Guidelines. However, to assist OPR with its efforts to revise the Guidelines, the County Administrative Office has provided the above comments in order to conform to OPR’s deadline to submit comments by October 12, 2015.

We are available to provide any further assistance so that OPR clearly understands the comments submitted by the County. Also, should you wish to discuss the County’s comments, please contact Deputy County Counsel, Sophie Akins at 909-387-5001 or sophie.akers@cc.sbcounty.gov.

Sincerely,



GREGORY C. DEVEREAUX

Chief Executive Officer

GCD:SA:smj

c: Gerry Newcombe, Director of Public Works
Sophie Akins, Deputy County Counsel
Terri Rahhal, Planning Director